

ARKANSAS SUPREME COURT

No. CR 06-375

NOT DESIGNATED FOR PUBLICATION

Opinion Delivered October 5, 2006

RALPH DOUTHITT
Appellant

PRO SE MOTION FOR
RECONSIDERATION OF DISMISSAL
OF APPEAL [CIRCUIT COURT OF
INDEPENDENCE COUNTY, CR 95-58,
HON. JOHN DAN KEMP, JUDGE]

v.

STATE OF ARKANSAS
Appellee

MOTION DENIED

PER CURIAM

In 1995, appellant Ralph Douthitt was convicted by a jury of sixty-one counts of felony rape, incest and violation of a minor, and was sentenced to 174 years' imprisonment. We affirmed. *Douthitt v. State*, 326 Ark. 794, 935 S.W.2d 241 (1996). After other attempts to obtain postconviction relief, in 2005, appellant filed in the trial court a *pro se* petition to vacate and set aside the judgment against him pursuant to Act 1780 of 2001, codified at Ark. Code Ann. §§ 16-112-201–207 (Repl. 2006).¹ The trial court denied the petition without a hearing, and appellant, proceeding *pro se*, lodged an appeal here from the order. We dismissed the appeal. *Douthitt v. State*, CR 06-375 (Ark. June 15, 2006) (*per curiam*). Appellant now seeks reconsideration of the dismissal of the appeal.

We dismissed the appeal on the ground that appellant's untimely petition did not meet the

¹In addition to seeking scientific testing based on his claims of innocence, appellant's petition improperly argued other issues, including insufficient evidence to support his conviction, unlawful arrest, illegal search and seizure, ineffective assistance of counsel at the trial and appellate levels and denial of a fair and impartial trial.

jurisdictional burden imposed by section 16-112-202(10)(B). Act 1780 was amended by Act 2250 of 2005, which added this section. This requirement states a petition for writ of *habeas corpus* under Act 1780 must be filed within thirty-six months after the date of the conviction, unless a petitioner rebuts the presumption of untimeliness that arises if the petition is filed more than thirty-six months after the date of the conviction.² Additionally, we found that appellant failed to satisfy other statutory requirements, including failure to state the basis for proving his innocence with new scientific testing not available at the time of his trial, failure to identify the evidence to be tested and failure to specify the scientific tests to be conducted on the evidence. *See* sections 16-112-202(1), (2), (5), (6) and (8).

In his motion for reconsideration, appellant once again argues the constitutionality of the search conducted of the residence he shared with his wife, the victim's mother. Additionally, appellant continues to maintain his innocence based on his own proclamation of blamelessness, as well as "common sense." However, the motion for reconsideration does not establish that there was any error in our opinion or present any cognizable basis for issuance of the writ, and thus, fails to submit any ground for reconsideration of the pleadings.

Affirmed.

²The presumption can be rebutted upon a showing that: (i) the petitioner's incompetence caused or contributed to the delay; (ii) the evidence to be tested is newly discovered; (iii) the motion was not based solely upon the petitioner's own assertion of innocence and a denial of the motion would result in a manifest injustice; (iv) a new and substantially more probative method of testing is available; (v) other good cause exists.